

DEPARTMENT OF TRANSPORTATION**ADMINISTRATION**

DIVISION OF PROCUREMENT AND CONTRACTS MS-67

1727 30th STREET

SACRAMENTO, CA 95816-7006

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INTERNET <http://caltrans-opac.ca.gov>*Flex your power!
Be energy efficient***December 17, 2003****Addendum One****Request for Proposal (RFP) 88A0017****Northern California Disadvantaged Business Enterprise (DBE)****Supportive Services Assistance Consultant****“Revised” Submittal Deadline: January 12, 2004, 3:00 P.M.**

1. This addendum notifies all bidders of the following time schedule changes.

A. This addendum hereby amends RFP Section C) Proposal Requirements and Information, 1. Time Schedule to read:

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

| EVENT | DATE | TIME |
|---|------------------|-------------------------|
| | | (Pacific Standard Time) |
| RFP available to prospective Proposers | 10/31/03 | |
| Final Date for Proposal Submission | 01/12/04 | 3:00 P.M. |
| Oral Interviews | Week of 01/26/04 | |
| Cost Proposal Opening | 02/03/04 | 2:30 P.M. |
| Posting of Notice of Intent to Award | 02/09/04 | |
| BEP*/Risk Assessment*/Pre-Award Audit Findings* | 03/09/04 | |
| Agreement Award - tentatively | 04/12/04 | |

2. The following represents a summation of the questions submitted for the subject RFP and the Department's responses:

Q1. Please clarify the budgeted range/allocation for this contract?

Answer: The Department of Transportation has estimated the value of this contract range from \$595,000.00 to \$850,000.00 for a three (3) year period.

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Q2. Will you please clarify the issue of the 17% goals for this RFP? Page 17 of 17 states the goal is 17%, "...the State has established a goal expressed as a percentage of the total dollar value of the Agreement for DBEs participating in this Agreement." Some in our office have interpreted this to mean that if the dollar value of our proposal was \$800,000.00 then 17% of the amount of "this Agreement" would have to be through a DBE subcontractor. Is this the case?

Answer:

Yes. The Department has placed a 17 % DBE goal on this RFP. The total value of this contract is estimated to be between \$595,000 - \$850,000.00 If the proposer does not meet or exceed the goal at the time of proposal submittal, they must submit documentation to support that a Good Faith Effort (GFE) was made to meet the goal. Please refer to Page 17, Section D) Preference Programs for further information of the Disadvantaged Business Enterprises (DBE) and Attachment 6, Bidder/Proposer DBE Information Instructions.

Q3. On page 4 of 12 in Exhibit D, it states that "The DBE participation goal for this Agreement is 17 percent (%). Participation by DBE prime and subcontractors shall be in accordance with the information contained in the Bidder/Proposer DBE Information Form ADM 0227 attached and incorporated into this Agreement."

Form ADM 0227 was not part of the RFP distributed and was not readily found on an internet search. My interpretation from reading Exhibit D without access to ADM 0227, is that for the various Caltrans projects in total, the goal for DBE participation is 17%. Is this the case?

Answer:

The Form ADM 0227 is actually ADM 0227F and can be found in Attachment 6 of the RFP package directly following the Form ADM 0221F. It requires that you provide specific information about the DBE(s) that will participate in the contract. This information is used to verify DBE participation towards the goal.

At the time this contract was advertised, the State of California had an overall DBE goal of 17% for its federal transportation funds. An individual contract goal is established on each contract by using standard criteria that includes the availability of certified DBEs, who are ready, willing, and able to participate on items of work specific to a contract and in the geographic area where the contract is being let. Based on the criteria, the DBE goal for this RFP is 17%.

Please refer to Page 17 of 17, Section D) Preference Programs and Attachment 6 for further information.

Q4. If this is the case, how would success be measured for the Northern California region where many of the DBE participation goals are at 5%, 8%, 13%, 16% 11%, etc? Would success require multiple projects where a goal is exceeded substantially? For example, contract 01-291004 was a large contract with a 16% DBE goal that achieved 32.5% DBE participation.

Answer:

The goals referenced in the above question appear to pertain to construction contracts. The goals for this service contract is 17%.

Please refer to the RFP solicitation document, Page 17 of 17, under Paragraph D) Preference Programs and Attachment 6,

Q5 . Or would success be measured by aggregating all the contracts for a period of time (6 months, 1 year) and would the aggregate value of DBE contracts as a percentage, be the basis of referencing 17%?

Answer:

The goal for this contract is 17%. These goals are established in the answer to Q4.

Q6. How many copies of the technical proposal are required?

Answer:

For the Technical Proposal, an original and eight (8) copies are required.

Q7. When is the first training class expected to be delivered from the start-date of the project?

Answer: The first training class will be approximately two (2) months from the start date.

Q.8 Does SF/Oakland Bay Area include San Jose?

Answer: San Jose is considered part of the SF/Oakland Bay Area.

Q.9 Will Caltrans make available its facilities, including Computer Labs, for training sessions?

Answer: The Department will not provide facilities for Computer Labs. However, the Department may be able to provide facilities in Sacramento for evening and Saturday training upon request.

Q.10 Will Caltrans provide an allocation guideline (in hours) for “focused outreach for highly sensitive projects”?

Answer: The allocation guideline for “focused outreach for highly sensitive projects” is approximately 1,000 hours per year.

Q.11 Please clarify how many committees of the Small Business Council, the Consultant is expected to attend (i.e. In addition to the Construction and Professional Services Committee)?

Answer: The Contractor will only be expected to attend the Construction and Professional Services Committees.

Q. 12 The RFP requests that the consultant assist DBEs in successfully bidding, securing, and performing on department and local agency federally-aided transportation contracts. Please specify how many DBEs will be assisted and on what number of contracts.

Answer: The Department will be referring proteges from the Mentor Protégé Programs to the Contractor. Additionally certified DBEs will be contacting the Contractor for assistance. Because the Supportive Services offered in this contract have not been provided in the past by the Department, we are not able to furnish workload estimates at this time. Also, we do not have any data on the potential number of contracts that DBEs may be requesting assistance on.

Q.13 The RFP requests that the consultant develop a Technical Assistance Training Program, Training Manual, and Training Modules, in addition to delivering the training to DBEs. Once again, developing a bid for this specification requires knowing the number of DBEs who will receive the training.

Answer: The contractor is required to solicit DBEs to participate in each training. It is the Department's expectation that a minimum of 25 certified DBEs will participate in each training session provided by the consultant.

Q.14 The RFP request that the consultant provide one-on-one technical assistance to DBEs. It is necessary to know the number of DBEs who will likely seek contracts with the Department or local agencies and who will seek the assistance of the DBE Consultant in order to responsibly estimate costs.

Answer: Please refer to the answer provided to Question #12.

Q.15 The RFP request technical assistance training modules with a minimum of seven sections. Is each section a 12-hour module, or do the seven sections comprise of one 12- hour module?

Answer: Each section is a 12 hour module.

Q.16 Will Caltrans provide the same office space in Oakland for the DBE Support Services as it is currently providing on the current contract?

Answer: Caltrans will not provide office space in Oakland or at any other locations.

Q.17 In the Technical Proposal (Program Elements) Question #5, can you please explain the term "task order system"?

Answer: A task order system is a process. Request for assistance that are received from clients are recorded on a daily basis according to the service that the Contractor provides. Many DBE clients will be asking for similar assistance such as finding contracts, marketing their business, obtaining bonding, obtaining insurance, etc. In the task order system the contractor will identify the types of assistance their clients are requesting and then routinely track the number of requests received and the amount of time that was spent responding to each request.

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Addendum One
Page Six

Q.18 RFP Number 88A0017 allows a fixed fee that is an addition to the actual costs that the State will pay. (in Standard Agreement, Exhibit B). Is this “Fixed Fee” within the budgeted allocation range of \$595-850,000 or is it separate from the budgeted allocation range? In essence, how should the fixed fees be budgeted?

Answer: The fixed fee is within the budgeted allocation range of \$595,000.00 - \$850,000.00. Please refer to the solicitation, Section 3. Cost proposal Requirements, a) Cost Detail Format.

Christine Fong
Service Contracts Analyst
(916) 227-6015

The proposal submittal must consist of two parts: (1) a Technical Proposal and (2) a Cost Proposal. The Technical Proposal and the Cost Proposal are to be submitted in two separate sealed envelopes. The two separate sealed envelopes may be mailed inside one large mailing package. Do not include any cost or goal information in the Technical Proposal. Any cost or goal information in the Technical Proposal will be cause for rejection of your proposal.

The following is a Table of Contents for downloading the RFP documents from the Internet:

| | | |
|--------------|---|----------|
| 88A0017a.doc | Request for Proposals Internet Cover | 1 Page |
| 88A0017b.doc | Request for Proposals Cover Letter | 1 Page |
| | Request for Proposal | 17 Pages |
| | Attachment 1 Cost Proposal | 2 Pages |
| | Attachment 2 Contractors Certification Clause | 4 Pages |
| | Attachment 3 Proposal/Proposer Certification Sheet | 2 Pages |
| | Attachment 4 Required Attachment Check List | 1 Page |
| | Attachment 5 Criteria for Evaluation of Consultant Technical Proposal | 1 Page |
| 88A0017c.doc | Attachment 6 Bidder/Proposer DBE Information Instructions | 11 Pages |
| 88A0017d.doc | Attachment 7 Sample Standard Agreement | 24 Pages |
| 88A0017e.doc | Attachment 8 Caltrans District Map | 1 Page |

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**10/30/03
REQUEST FOR PROPOSAL
Notice to Prospective Proposers
RFP Number 88A0017**

You are invited to review and respond to this Request for Proposal (RFP) Number 88A0017 entitled **Northern California Disadvantaged Business Enterprise (DBE) Supportive Services Assistance Consultant**. In submitting your proposal, you must comply with the instructions found herein.

Note that all Contracts (Agreements) entered into with the State of California will include by reference General Terms and Conditions that may be viewed and downloaded at Internet site www.dgs.ca.gov/contracts. If you do not have Internet access, a hard copy can be provided by contacting the contact person listed below.

In the opinion of the Department of Transportation, this RFP is complete and without need of explanation. However, if you have *questions, or should you need any clarifying information, the contact person for this RFP is:

Christine Fong
Department of Transportation
(916) 227-6015
(916) 227-6155

*Technical questions regarding this solicitation will be addressed, in writing, in accordance with the Questions and Answers portion of this RFP. See Section C) 2 of this RFP for more details.

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Christine Fong
Contract Administrator

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| 5. Criteria for Evaluation of Consultant Technical Proposals | |
| 6. Disadvantaged Business Enterprise (DBE) Participation Program | |
| 7. Sample Standard Agreement (STD 213): | |
| Exhibit A, Scope of Work | |
| Exhibit B, Budget Detail and Payment Provisions | |
| Exhibit D, Special Terms and Conditions | |
| Exhibit E, Additional Provisions | |

A) Purpose and Description of Services

The California Department of Transportation (Department), Business Enterprise Program, is seeking proposals for a Northern California Disadvantaged Business Enterprise (DBE) Supportive Services Assistance Program Consultant (Consultant). The Consultant shall provide a level of supportive services that promotes the use of and increases the participation of DBEs on Federally funded transportation and related projects such as, highway and transit construction, Architectural and Engineering (A & E), and Minor B Contracts. The Consultant shall provide synergistic, viable methodologies that will make the most effective use of program resources to achieve the goal of increasing DBE participation.

Accordingly, the Consultant shall devote approximately 60% of his/her time assisting DBEs to become more successful in bidding, securing, and performing on Department and Local Agencies Federally-aided transportation contracts. The Consultant shall provide DBEs with assistance through the development and implementation of a Technical Assistance Training Program, Training Manual and Training Modules.

The Consultant shall also devote approximately 5% of his/her time to providing specialized one-on-one technical assistance. The specialized assistance shall be defined on task orders so that the activities can be tracked and monitored by the Consultant and the State Contract Manager.

The Consultant will provide services to DBEs located in the California Department of Transportation Districts 1-5 (excluding Santa Barbara and San Luis Obispo Counties, District 6 (excluding Kern County), District 9 and District 10. Please refer to Attachment 8, Caltrans District Map.

Please refer to **Attachment 7, Exhibit A, Scope of Work** for a more detailed description of the Scope of Work.

B) Minimum Qualifications for Proposers

1. The Consultant will maintain two offices: one within the San Francisco/Oakland Bay Area and one within the Sacramento/San Joaquin Valley region. Each Office must be:
 - a). accessible to all clients
 - b). open Monday through Friday, 8:00 A.M. to 5:00 p.m.
 - c). adequately staffed both by professional and support staff

2. The Consultant shall make available at each office, a plan room or area where plans can be viewed by certified DBEs.

C) Proposal Requirements and Information

1. Time Schedule

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

| EVENT | DATE | TIME (Pacific Standard Time) |
|---|---------------------|---------------------------------|
| RFP available to prospective Proposers | 11/05/03 | |
| Final Date for Proposal Submission | 12/22/03 | 2:00 P.M. |
| Oral Interviews | Week of 01/05/04 | |
| Cost Proposal Opening | Week of 01/05/04 | |
| Posting of Notice of Intent to Award | 01/12/04 | |
| BEP*/Risk Assessment*/Pre-Award Audit Findings* | 02/17/04 | |
| Agreement Award - tentatively | 03/10/04 | |

2. Questions and Answers

- a) Questions regarding this RFP must be submitted in writing.
- b) Written questions should include the individual's name, firm name, complete address and must reference RFP No. 88A0017. Questions should be sent to the following address:

MAILED OR FAXED
Fax No.: (916) 227-6155

Department of Transportation, MS-67
Division of Procurement and Contracts
Attention: Christine Fong
1727 30th Street
Sacramento, CA 95816

Written responses to all questions will be collectively compiled and mailed, as an Addendum, to each individual or firm who downloaded this RFP from the Internet or who requested this RFP by calling the recorded bid line: (916) 227-6075. After the deadline for question submittal, the Addendum is released when all of the questions have been addressed. Hard copy responses are disseminated by mail,

and an electronic version is uploaded to the Department of Transportation's website. Refer Section C (1), **Time Schedule**, to get this RFP's schedule of events and dates. It is the responsibility of the Proposer to inquire about an expected Addendum if the Addendum is not received. The proposer can contact the Contract Analyst named above or check the Department of Transportation's website:

<http://www.caltrans-opac.ca.gov/contract.htm>

3. Technical Proposal Requirements

An original proposal marked "ORIGINAL COPY" and **eight** copies will be required for the Technical Proposal. Each Technical Proposal shall contain at a minimum, all required items listed below. Each requirement's location must be listed in a Technical Proposal Table of Contents. Also see **Section C, Item No. 5, Submission of Proposal**, for submittal details.

a) Management

The Proposer shall designate, by name, the Project Manager and a designated alternate project manager to be employed and to represent the contractor. The selected Contractor shall not cause the substitution of the Project Managers or alternate project manager without prior written approval of the State.

b) Methodology

- (1) Describe and identify key elements that go into the design of a successful and effective construction management training program.
- (2) Describe your overall approach to the development and implementation of a technical construction training program, training manual, and training modules.
- (3) Describe the specific administrative and operational management expertise that will be employed.
- (4) Describe the criteria that would be used to select DBE participants for training programs.
- (5) Provide estimates of the number of trainees that will be included in each training session.
- (6) Describe how your training programs will be successful.

c) Work Plan and Work Schedule

- (1) The Proposer shall develop an outlined work plan and schedule for the development and implementation of the Technical Assistance Training Program.
- (2) The work plan and schedule shall identify each major task, necessary subtasks, and specific milestones by which progress can be measured and payments made.
- (3) The work plan and schedule shall identify the primary individual(s) responsible for the tasks and specify the estimated hours to accomplish each task.

d) Program Elements

The following questions are designed to assist the Proposer demonstrate his/her knowledge and understanding of the Federal regulations and requirements of the Federally mandated DBE Supportive Services Assistance Program. The Proposer must address the following elements in their proposal:

- (1) Approaches and techniques that would be used to determine the strengths and weakness of DBE clients.
- (2) Identify or describe the most common problems or barriers encountered by DBE firms bidding on Federally-aided constructions projects.
- (3) Describe how DBE concerns and suggestions would be utilized.
- (4) Describe how certified DBE firms in the service delivery area would be identified.
- (5) Describe how the specialized, one-on-one DBE technical assistance task-order system will be handled.
- (6) Describe how the DBE Supportive Services Assistance Program will be marketed and promoted.
- (7) Describe how DBE requests for pre-bid and post-award assistance will be handled.
- (8) Describe how the pre-bid and post-award assistance will be provided.
- (9) Identify some of the agencies, organizations, and individuals that you anticipate working with as a DBE Supportive Services Assistance Programs Consultant.

(10) Describe your ideas about utilizing local government and community resources to run a more effective DBE Supportive Services Assistance Program.

(11) Describe how you ensure an effective working relationship with the California Department of Transportation.

(12) Describe ways you envision the Department assisting you.

e) Personnel

The prospective Contractor shall list all personnel who will be working on the project. Include their titles, qualifications, a summary of similar work or studies performed, a resume for each professional, a statement indicating how many hours each professional will be assigned to the Agreement and what tasks each professional will perform. The Contractor shall not cause members of the project team to be substituted without prior written approval of the State.

f) Resource Material

The Contractor shall provide material and information to DBEs pertaining to bonding and loan programs, including information on the Federal Department of Transportation Short-Term Lending Program and Bonding Assistance Program as well as information on Small Business Development Centers (SBDCs) and Minority Business Development Centers (MBDCs).

The Department shall make the following available for use by the Contractor in administering the Department's Northern California DBE Supportive Services Assistance Program:

- (1) Brochures and regulatory information about the DBE program as it pertains to Federal-Aid transportation related projects, including highway and transit construction and consultant contracts pertaining to architectural, engineering, and other related professional and service contracts.
- (2) Applications and instructions for DBE certification.
- (3) Lists of Federal-Aid highway and other transportation-related contracts scheduled for advertising and under construction by the Department.
- (4) Copies of plans, specifications, and prime plan holder lists for construction and other transportation-related contracts put out to bid by the Department.
- (5) Copies of Requests for Proposals for service contracts.

(6) Lists of upcoming Architectural and Engineering projects.

g) References

The prospective Contractor shall provide the names of at least three (3) clients for whom the prospective Contractor has previously performed work similar to that proposed in this request. Each reference must have:

- Firm Name,
- Contact Name,
- Street Address,
- City, State, Zip Code,
- Telephone Number,
- Brief Description of Service provided,
- Service Dates, and
- the Service Value/Cost.

h) Subcontracts

If subcontractors are to be used, the prospective Contractor must include in the Technical Proposal, a description of each person or firm and the work to be done by each subcontractor. All subcontracts must be approved by the State, and no work shall be subcontracted without the prior written approval of the State. The cost of the subcontract work is to be itemized in the Cost Proposal as described below in the section entitled **Cost Proposal Requirements**. Any costs, either prime Contractor or subcontractor, stated in any way in the Technical Proposal will result in rejection of the proposal.

i) Page Headers and Page Numbering

All pages of the Technical Proposal, including cover pages, Table of Contents, references and resumes, shall have the following header and page numbering format in the upper right-hand corner:

Technical Proposal
Contract No. 88A0017
Attachment 3
Page # of ##

Brochures, tapes, drawings, etc. being submitted with Technical Proposals shall be clearly identified as to the name of the Proposer and the RFP number.

4. Cost Proposal Requirements

a) Cost Detail Format

1. The proposed work shall be outlined in the Work Plan and Work Schedule, refer to Section C, (3) above for the purpose of this proposal. The resultant Agreement cannot exceed the budgeted allocation range of **\$595,000 – \$850,000**. The Cost Proposal, and only the Cost Proposal, shall itemize all items that will be charged to the State including travel charges that will be involved and included in the bid amount. Costs shall be segregated to show actual salary costs including hours, rates, classifications, administrative overhead and fringe benefit expenses. The Cost Proposal is inclusive for the entire three year contract.
2. Cost Proposals shall follow the Cost Proposal format provided in **Attachment 1**, and shall be submitted in a separate sealed envelope. No cost information of any kind is allowed in the Technical Proposal. Cost Proposal information consists of: Cost Proposal, Proposal/Proposer Certification Sheet, and Preference Program Documents (See **Section D**, Preference Programs). Cost Proposal information found in the Technical Proposal may be cause for rejection of the proposal.

b) Subcontracts

The breakdown of subcontract costs shall follow the same format.

c) Page Headers and Page Numbering

All pages of the Cost Proposal, including cover pages, Table of Contents, and if applicable, DBE forms shall have the following header and page numbering format in the upper right-hand corner:

Cost Proposal

Agreement No. 88A0017

Attachment 1

Page # of ##

5. Submission of Proposal

- a) Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.

- b) The original proposal must be single sided and marked "ORIGINAL COPY". All documents contained in the original proposal package **must have original signatures** and **must be signed by a person who is authorized to bind the proposing firm**. All additional proposal sets may contain photocopies of the original package. Due to limited storage space, the proposal package should be prepared in the least expensive method (i.e., cover page with staple in upper left-hand corner, no fancy bindings: spiral binding, 3-hole punch, etc.).
- c) Responses to this RFP shall be submitted in **two (2) separate** sealed packages/envelopes:
- 1st sealed Package/Envelope: Technical Proposal** - Original and **seven (7)** copies.
- 2nd sealed Package/Envelope: Cost Proposal** – Original Cost Proposal, Proposal/Proposer Certification Sheet, and cost information and DBE attachments.
- d) Proposals must be submitted no later than **2:00 P.M.**, December 22, 2003 and addressed as follows (reference C.1, Time Schedule):

Proposals received **after** this date and time will **not** be considered.

The proposal package/envelope must be plainly marked with the RFP number and title, your firm name, address, and must be marked with "DO NOT OPEN", as shown in the following example:

| 1ST SEALED PACKAGE/ENVELOPE | 2ND SEALED PACKAGE/ENVELOPE |
|--|--|
| Agency/Firm Name Address RFP Number 88A0017 RFP Title: Northern CaliforniaDisadvantaged Business Enterprise Supportive Services Consultant | Agency/Firm Name Address RFP Number 88A0017 RFP Title: Northern CaliforniaDisadvantaged Business Enterprise Supportive Services Consultant |
| TECHNICAL PROPOSAL DO NOT OPEN | COST PROPOSAL DO NOT OPEN |

Proposals not submitted under sealed cover and marked as indicated may be rejected. If the proposal is made under a fictitious name or business title, the actual legal name of Proposer must be provided.

- e) All proposals shall include the documents identified in this RFP's **Attachment 1, Required Attachment Checklist**. Proposals not including the proper "required

attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.

- f) Proposals must be submitted for the performance of all services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.
- g) Both of the individually sealed and labeled Proposals (Technical and Cost Proposal) can be packaged and mailed together. Label (as instructed below) and Mail or deliver package to the following location.

MAILED OR *DELIVER TO:

Department of Transportation, MS-67
Division of Procurement and Contracts
Attention: Christine Fong
1727 30th Street
Sacramento, CA 95816

In the upper portion of the sealed mailing envelope, label outer package:

RFP Number 88A0017
RFP Title: Northern California Disadvantaged Business
Enterprise Supportive Service Consultant
Firm Name: _____

DO NOT OPEN

* If your proposal is hand delivered, you must date and time stamp it immediately upon arrival. The date/time stamp machine is located in the lobby of the first floor to the right of the security guard station at the address noted above. After date/time stamping, proposals should be placed in the locked bid cabinet located below the time stamp. If the proposal package is too large to be electronically stamped, date/time stamp one of the labels provided and attach it to the proposal package. When the proposal package is too large for the locked bid cabinet, ask the security guard to call the Contracts' reception desk at 227-6000 to have your bid package picked up by Contracts' staff.

- h) Each prospective Contractor's Technical Proposal will be reviewed to determine if it meets the proposal requirements contained in the section **Technical Proposal Requirements** (above). Failure to meet the requirements for the RFP may be cause for rejection of the proposal.
- i) A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject any or all proposals and may waive any immaterial deviation in a proposal. The State's

waiver of immaterial defect shall in no way modify the RFP document or excuse the Proposer from full compliance with all requirements if the Proposer is awarded the Agreement.

- j) Costs for developing proposals and in anticipation of award of the Agreement are entirely the responsibility of the Proposer and shall not be charged to the State of California.
- k) Only an individual who is authorized to bind the proposing firm contractually shall sign the Proposal/Proposer Certification Sheet, **Attachment 3**. The signature must indicate the title or position that the individual holds in the firm. The proposer's proposal shall be rejected if the Proposal/Proposer Certification Sheet is not signed.
- l) A Proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline. Proposal modifications offered in any other manner, oral or written, will not be considered.
- m) A Proposer may withdraw its proposal by submitting a written withdrawal request to the State that is signed by the Proposer or an authorized agent. A Proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
- n) The Department of Transportation may modify the RFP up to the specified time of the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package. All addenda prior to the submission deadline are also posted on the Department's website: www.caltrans-opac.ca.gov/contract.htm.
- o) The State reserves the right to reject all proposals for reasonable cause. If all proposals are bid too high, the State is not required to award a contractual Agreement.
- p) Proposers are cautioned to not rely on the State during the evaluation to discover and report to the Proposer any defects and errors in the submitted documents. Proposers, before submitting their documents, should carefully proof them for errors and adherence to the RFP requirements.
- q) Where applicable, Proposer should carefully examine work sites and specifications. Proposer shall investigate conditions, character, and quality of surface or subsurface materials or obstacles that might be encountered. No additions or increases to the agreement amount will be made due to a lack of careful examination of work sites and specifications.

- r) More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any Proposer has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that Proposer. If there is reason for believing that collusion exists among the Proposers, none of the participants in such collusion will be considered in this or future procurements.

6. Evaluation Process

- a) At the time of proposal opening, each proposal will be checked for the presence and/or absence of required information in conformance with the submission requirements of this RFP.
- b) The State will put each proposal through a process of evaluation to determine its responsiveness to the State's needs. Technical proposals and if applicable, oral presentations will be rated by an evaluation committee using a consensus process (DOT's RFP Evaluation Standards and Procedures) for determining final scores.
- c) Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the Proposer, may be rejected. If, in the opinion of the State, such information was intended to mislead the State in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, it will be the basis for rejection of the proposal.
- d) The final selection will be made on the basis of the lowest responsive, responsible Cost Proposal.
- e) Phase I

The proposal evaluation will be a combined evaluation of the Technical Proposal and an oral presentation. Proposers will be contacted to schedule a date and time. Only those Proposers that receive a minimum score of **75%** or above will move on to Phase II, Cost Openings. Technical Evaluations will be based on **Attachment 5, Criteria For Evaluation of Consultant Technical Proposals**. It is anticipated that oral presentations will be held in the City of **Sacramento**. Those Technical Proposals receiving less than the above minimum score will not receive further consideration.

f) Phase II

The SEPARATE sealed Cost Proposal envelope will be publicly opened and read for those Proposers given a rating of **75%** or above by the evaluation committee. The Agreement will be awarded to the lowest responsive, responsible Proposer meeting the requirements outlined in this RFP, pending approval (if applicable) by the Department's Business Enterprise Program, of that proposal's satisfactory compliance of the DBE requirements, and approval of any applicable Preference Programs set forth in this RFP.

- g) If no proposals are received containing bids offering a price, which in the opinion of the Department is a reasonable price, the Department is not required to award an Agreement (Public Contract Code 10344 (d)).
- h) The prospective Contractor is advised that should this RFP result in an award of an Agreement, the Agreement will not be in force and no work shall be performed until the Agreement is fully approved by the State and the Contractor is notified by the Contract Manager to begin work.
- i) In the event of a precise tie, lots will be drawn, or if applicable, the tie will be broken in accordance with Government Code 14838 (f).
- j) Pre-Award Audit

Prior to award of the Agreement, a pre-award audit may be performed. The pre-award audit will be conducted in accordance with generally accepted governmental auditing standards as promulgated by the United States General Accounting Office. The scope of the audit will consist of such tests as the auditors consider necessary to assure that the Contractor satisfactorily meets the requirements outlined in Items 1-3 below prior to execution of the Agreement. Upon completion of a pre-award audit, if, in the Department's judgment, one or more of these requirements is not satisfactorily met, Agreement award may be canceled.

1. At the time of the pre-award audit, the prospective Contractor must demonstrate through actual historical data that its accounting system is capable of accumulating and segregating reasonable, allocable and allowable costs. For new businesses, if actual historical data is unavailable or the accounting system is newly implemented, the system will be tested to determine whether the accounting system is adequate and, if necessary, recommend that an interim audit be performed. At a minimum, the Contractor must have an accounting system that meets the following objectives:
 - a. The ability to record and report financial data in accordance with generally accepted accounting principles and the Code of Federal

Regulations, Title 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31.

- b. The ability to accumulate and segregate reasonable, allocable and allowable costs through the use of a cost accounting system.
 - c. A system of record keeping ensuring that costs billed to the Department of Transportation will be supported by adequate documentation and in compliance with the terms of the Agreement and applicable Federal and State regulations.
 - d. Procedures to retain accounting records and source documentation as required by the terms of the Agreement and applicable Federal and State regulations.
 - e. A system of internal control, which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported and corrected.
- 2. The prospective Contractor must be financially capable of performing the work.
 - 3. The costs proposed must be reasonable.

7. Award and Protest

- a) Notice of the proposed award shall be posted at the Department of Transportation, 1727 30th Street, Sacramento, 95816 (1st floor Lobby display case), and on the following Internet site: www.caltrans-opac.ca.gov/bidchoic.htm for five (5) working days prior to awarding the Agreement.
- b) Proposers have the right to protest the award of Department of Transportation Agreements subject to the following grounds, processes and procedures.
 - 1. If any Proposer, prior to the award of Agreement, files a protest with the Department of Transportation and the Department of General Services, Office of Legal Services, on the grounds that the (protesting) Proposer would have been awarded the Agreement had the Agency correctly applied the evaluation standard in the RFP, or if the Agency followed the evaluation and scoring methods in the RFP, the Agreement shall not be awarded until either the protest has been withdrawn or the State has decided the matter. It is suggested that you submit any protest by certified or registered mail to:

| | |
|---|---|
| Department of Transportation Division of Procurement & Contracts, MS 67 Attention: A.C. Lichtman, Protest and Dispute Manager 1727 30 th Street Sacramento, CA 95816 Phone Number: (916) 227-6084 Fax Number: (916) 227-6155 | Department of General Services Office of Legal Services Attention: Protest Coordinator 707 Third Street, 7 th Floor West Sacramento, CA 95605 Phone Number: (916) 376-5080 Fax Number: (916) 376-5088 |
|---|---|

2. Within five (5) days after filing the initial protest, the protesting Proposer shall file with the Department of General Services, Office of Legal Services and the Department of Transportation a full and complete written statement specifying the grounds for the protest. It is suggested that you submit this complete written statement by certified or registered mail.
- c) Upon award of the Agreement, Contractor must complete and submit to the Department of Transportation the Payee Data Record (STD 204), to determine if the Contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662. This form can be found on the Internet at www.osp.dgs.ca.gov under the heading FORMS MANAGEMENT CENTER. No payment shall be made unless a completed STD 204 has been returned to the Department.
- d) Upon award of the Agreement, Contractor must sign and submit to the Department of Transportation, page one (1) of the Contractor Certification Clauses (CCC), **Attachment 2**, or the form can be obtained via the Internet at www.dgs.ca.gov/contracts.

8. Disposition of Proposals

Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The State cannot prevent the disclosure of public documents. However, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Notice of Intent to Award" is posted. We recommend that you copyright any proprietary material submitted.

9. Standard Conditions of Service

- a) Service shall be available no sooner than the express date set by the Department of Transportation and the Contractor, after all approvals have been obtained and the Agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, the Department of Transportation, upon five (5) days written notice to the Contractor, reserves the right to terminate the Agreement. In addition, the Contractor shall be liable to the State for the difference between Contractor's Proposal price and the actual cost of performing work by the second lowest Proposer or by another Contractor.
- b) All performance under the Agreement shall be completed on or before the termination date of the Agreement.
- c) The State does not accept alternate Agreement language from a prospective contractor. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions (GTC) are not negotiable. The GTC 103 may be viewed at Internet site www.dgs.ca.gov/contracts.
- d) No oral understanding or agreement shall be binding on either party.

D) Preference Program(s)

The following Preference Program(s) are applicable to this RFP.

1. Disadvantaged Business Enterprises (DBE)

- A. **The goal is: 17%.** See **Attachment 6** to complete the required forms and for further detailed information concerning DBE requirements. This project is subject to Part 26, Title 49, Code of Federal Regulations entitled "Participation by DBE in Department of Transportation Programs". In compliance with this Federal Regulation, the State has established a goal expressed as a percentage of the total dollar value of the Agreement for DBEs participating in this Agreement.
- B. It is MANDATORY that the DBE Information form, ADM-0227F, and/or the DBE Good Faith Effort Information form, ADM-0312F be submitted with the bid cost proposal. Failure to provide detailed cost breakdowns and any required DBE information in the Cost Proposal **will be cause for rejection** of the proposal..

ATTACHMENT 1
COST PROPOSAL WORKSHEET

| DIRECT LABOR (List all positions) | HOURS | Monthly Rate | Total for Three Years |
|--|--------------|---------------------|----------------------------------|
| Project Manager | | \$ | \$ |
| | | \$ | \$ |
| | | \$ | \$ |
| | | \$ | \$ |
| | | \$ | \$ |
| | | | |
| | | Sub Total | \$ |
| SUBCONTRACTOR(S) COST ITEMIZED | | | \$ |
| | | | |
| | | | |
| | | Sub Total | \$ |
| INDIRECT COSTS (Overhead and Fringe Benefits) | | | |

Overhead costs \$

Fringe Benefits \$

Sub Total **\$**

| DIRECT COSTS (Except Labor) | | Unit Costs | Total Costs for Three Years |
|------------------------------------|---|---------------------|--|
| | Training manual development | | |
| | Training modules development | | |
| | Training manual and training module update | | |
| | Work Shop cost including instruction, preparation time, training materials and supplies for ____ students. (Unit Cost – Monthly Cost) | | |
| | Marketing material | | |
| | | Sub Total | \$ |
| Travel Costs * | | Monthly Cost | |
| | | \$ | |
| | Quarterly Meetings | | |
| | Annual Meeting | | |
| | Local Workshops & Conferences | | |

| | | |
|--------------------|------------------|------------------------------|
| | Sub Total | \$ |
| | | Total for Three years |
| Grand Total | | \$ |

*Current State Mileage rate is \$0.34 per mile, see Department of Personnel Administration website for additional State travel reimbursement information and current rates.

<http://www.dpa.ca.gov/jobinfo/statetravel.shtm>

ATTACHMENT 2
CONTRACTOR CERTIFICATION CLAUSES

CCC-103

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

| | | |
|---|----------------------------------|--------------------------|
| <i>Contractor/Bidder Firm Name (Printed)</i> | | <i>Federal ID Number</i> |
| <i>By (Authorized Signature)</i> | | |
| <i>Printed Name and Title of Person Signing</i> | | |
| <i>Date Executed</i> | <i>Executed in the County of</i> | |

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. UNION ORGANIZING: Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

5. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.

ATTACHMENT 3

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed by an official authorized to bind the Proposer contractually, and returned along with all the "required attachments" as an entire package in duplicate with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

1. Our all-inclusive Cost Proposal is submitted in a sealed envelope marked "**Cost Proposal - Do Not Open**".
2. I certify that this proposal is a firm offer for a 90-day period.
3. Place all required attachments behind this certification sheet.
4. I have read and understand the DBE Participation requirements and have included documentation demonstrating that I have met the participation goals or have made a good faith effort.
5. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

**An Unsigned Proposal/Proposer Certification Sheet
Shall Be Cause For Rejection of Proposal**

| | | |
|---|---|---|
| 1. Company Name | 2. Telephone Number () | 2a. Fax Number () |
| 3. Address | | |
| Indicate your organization type: | | |
| 4. <input type="checkbox"/> Sole Proprietorship | 5. <input type="checkbox"/> Partnership | 6. <input type="checkbox"/> Corporation |
| Indicate the applicable employee and/or corporation number: | | |
| 7. Federal Employee ID No. (FEIN) | 8. California Corporation No. | |
| Indicate applicable license and/or certification information: | | |
| 9. Contractor's State Licensing Board Number | 10. PUC License Number CAL-T- | 11. Required |
| 12. Proposer's Name (Print) | | 13. Title |
| 14. Signature | | 15. Date |
| 16. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as: | | |
| a. Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____ | | |
| b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____ | | |
| NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes". Date application was submitted to OSBCR, if an application is pending: | | |

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the
Proposal/Proposer Certification Sheet by following the instructions below.

| Item Numbers | Instructions |
|----------------|--|
| 1, 2, 2a, 3 | Must be completed. These items are self-explanatory. |
| 4 | Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business. |
| 5 | Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit. |
| 6 | Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals. |
| 7 | Enter your federal employee tax identification number. |
| 8 | Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California. |
| 9 | Complete if your firm holds a California contractor's license. This information will be used to verify possession of a contractor's license for public works agreements. |
| 10 | Complete if your firm holds a PUC license. This information will be used to verify possession of a PUC license for public works agreements. |
| 11 | Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured. |
| 12, 13, 14, 15 | Must be completed. These items are self-explanatory. |
| 16 | If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR. |

ATTACHMENT 4**ATTACHMENT CHECK LIST**

A complete Proposal package will consist of the items identified below. Complete this checklist to confirm the items in your Proposal. Place a check mark or "X" next to each item that you are submitting to the State. All attachments identified below are applicable to this RFP and must be returned, as instructed, for your Proposal to be responsive. **Return this checklist with your Technical Proposal package.**

Technical Proposal and Attachments

NOTE: Return this Checklist with the Technical Proposal package.

Attachments**Attachment Name/Description**

| | |
|-------|---|
| _____ | Technical Proposal as stated in this RFP (This shall be incorporated in to the contract as Attachment 3) |
| _____ | Proposal Attachment Check List (RFP Attachment 4) |
| _____ | Contractor Certification Clauses (CCC 103). The CCC 103 can also be found on the Internet at http://www.dgs.ca.gov/contracts . Page one (1) must be signed and submitted prior to the award of the Agreement. (RFP Attachment 2) |

Cost Proposal and Attachments

NOTE: All Cost Proposal Information and applicable Attachments **MUST** be packaged separately from the Technical Proposal package. **No Cost Information of any kind is allowed in the Technical Proposal.**

Attachments**Attachment Name/Description**

| | |
|-------|---|
| _____ | Proposal/Proposer Certification Sheet (RFP Attachment 3) |
| _____ | Cost Proposal (RFP Attachment 1) |
| _____ | Disadvantaged Business Enterprise (DBE) Participation Forms: ADM 0227F Proposer DBE Information, and ADM 0312F Proposer DBE Good Faith Effort Information , and all necessary attachments. (RFP Attachment 6) |

ATTACHMENT 5

**CRITERIA FOR EVALUATION
CONSULTANT TECHNICAL PROPOSAL/ORAL PRESENTATIONS**

| Firm Name: | Maximum Possible Score (Weighted Score) | Consensus Determination - % | Score |
|--|--|------------------------------------|--------------|
| I. CLARITY AND ORGANIZATION OF PROPOSAL RESPONSE (15 Points) | | | |
| A. Clarity of proposal | 5 | | |
| B. Organization of proposal | 5 | | |
| C. Conciseness of proposal | 5 | | |
| Narrative: An appraisal by the Evaluation Committee of the Proposer's presentation. | | | |
| II. CONTRACTOR'S UNDERSTANDING OF DBE SUPPORTIVE SERVICES (15 Points) | | | |
| A. Federal regulations and requirements | 5 | | |
| B. Scope of Work | 5 | | |
| C. Recognizing the barriers and needs of DBEs | 5 | | |
| Narrative: An appraisal by the Evaluation Committee of the Proposer's understanding of the nature of the scope of work and objectives of this project. | | | |
| III. TECHNICAL CONSTRUCTION MANAGEMENT TRAINING PROGRAM (50 Points) | | | |
| A. Training methodology | 10 | | |
| B. Training techniques | 10 | | |
| C. Meets project requirements | 10 | | |
| D. Work plan and schedule | 10 | | |
| E. Sample construction management training module | 5 | | |
| F. DBE Marketing plan to promote training | 5 | | |
| Narrative: An appraisal by the Evaluation Committee of the Proposer's training methodology | | | |
| IV. CONTRACTOR AND STAFF QUALIFICATIONS (20 Points) | | | |
| A. Resumes/Statements of Qualifications | 10 | | |
| B. References | 10 | | |
| Narrative: An appraisal by the Evaluation Committee of the Proposer's construction training experience | | | |
| Total Score | | | |

Passing Score: **75** or **75%**. Only those proposers with a passing score will proceed.

ATTACHMENT 6

It is the policy of the Department of Transportation that a Disadvantaged Business Enterprises (DBE), as defined in Part 26, Title 49, Code of Federal Regulations (CFR), entitled "Participation by Disadvantaged Business Enterprise (DBE) in Department of Transportation Financial Assistance Programs", shall be encouraged to participate in the performance of contracts financed in whole or in part with Federal funds. The Contractor should ensure that DBEs, as defined in Part 26, Title 49 CFR, have the opportunity to participate in the performance of this solicitation and shall take all necessary and reasonable steps, as set forth in 49 CFR, Part 26 for this assurance. The bidder/proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

I. SUBMISSION OF DBE INFORMATION

The required DBE information shall be submitted on the Bidder/Proposer DBE Information submittal form ADM 0227F attached to these instructions.

This project is subject to 49 CFR Part 26 regulations. Bidders/proposers shall be fully informed of the requirements of the regulations and the Department's Disadvantaged Business Enterprise (DBE) program developed pursuant to the regulations.

It is the bidder/proposer's responsibility to make enough work available to DBEs and to select those portions of the work or material needs, consistent with the available DBEs, to meet the goal for DBEs or to provide information to establish that prior to bidding that the bidder/proposer made adequate good faith efforts to do so.

To be eligible for award of the contract, the bidder/proposer's DBE information shall establish that good faith efforts to meet the DBE goal have been made. To establish good faith efforts, the bidder shall demonstrate that the goal will be met or that, prior to bidding, adequate good faith efforts to meet the goal were made. Final determination of goal attainment or good faith effort by the bidder or proposer will be at the Department's discretion.

Bidders/proposers are cautioned that even though their submittal indicates they will meet the stated DBE goal, their submittal should also include their adequate good faith effort information along with their DBE goal information to protect their eligibility for award of the contract in the event the Department, in its review, finds that the goal has not been met.

It is the responsibility of the Contractor to verify that DBEs are certified.

A. DBE INFORMATION

The Bidders/proposers DBE information shall include:

1. The names of DBE firms that will participate in the contract including a complete description of work or supplies to be provided by each DBE and the dollar value of each proposed DBE transaction.
2. A written confirmation from each DBE that is participating in the contract. A copy of the DBEs quote will serve as written confirmation that the DBE is participating in the contract.
3. When 100 percent of a contract item of work is not to be performed or furnished by a DBE, a description of the exact portion of that work to be performed or furnished by that DBE shall be included in the DBE information including the planned location of that work.
4. The work that a DBE prime contractor has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors, suppliers and trucking companies will count toward the goal.

ATTACHMENT 6

5. A DBE joint venture must submit the joint venture agreement with their DBE Information (form ADM 0227F).

B. GOOD FAITH EFFORT

The information necessary to establish the bidder's/proposer's adequate good faith efforts to meet DBE goal is to include:

1. The name of each publication and the date the ad appeared in which a request for DBE participation for this contract was placed by the bidder/proposer.
2. The names and dates certified DBEs were sent written notices soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested.
3. The items of work which the bidder/proposer made available to DBE firms, including, where appropriate, any breakdown of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder/proposer's responsibility to demonstrate that sufficient work to meet the DBE goal was made available to DBE firms.
4. The names, addresses and phone numbers of DBEs who submitted bids which were not accepted, a summary of the bidder's discussions and/or negotiations with them, the name of the firm selected for that portion of work and the reasons for the bidder's choice.
5. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs.
6. Efforts made to assist interested DBEs in obtaining necessary equipment supplies, materials or related assistance or services; excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate.
7. Any additional data to support a demonstration of good faith efforts.

II. DBE PARTICIPATION REQUIREMENTS

Bidders/proposers shall be fully informed respecting the requirements of 49 CFR Part 26 regulations and the Department's Disadvantaged Business Enterprise (DBE) program developed pursuant to the regulations. Particular attention is directed to the following:

A. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

1. A DBE must be a small business firm defined pursuant to Section 3 of the federal Small Business Act and relevant regulations promulgated pursuant thereto. Certified DBEs are socially and economically disadvantaged individuals who are citizens of the United States and who are Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities or individuals found to be socially and economically disadvantaged pursuant to the federal Small Business Administration regulations.

ATTACHMENT 6

2. A bidder/proposer, in order to be considered a responsible and responsive bidder, must make good faith efforts to meet the goal established for the contract. The bidder/proposer can meet this requirement in one of two ways:
 - a. Meet the goal, documenting commitments for participation by DBE firms; or
 - b. If the goal is not met, the bidder/proposer must document adequate good faith efforts.
3. A bidder/proposer (prime contractor) who is not a certified DBE bidder/proposer will be required to document one or a combination of the following:
 - a. The bidder/proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 - b. Prior to bidding the bidder/proposer made an adequate good faith effort to meet the goal.
4. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies or as a trucking company.
5. A certified DBE bidder/proposer not bidding as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - a. The DBE bidder/proposer will meet the goal by performing work with its own forces.
 - b. The bidder/proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 - c. The bidder/proposer prior to bidding made an adequate good faith effort to meet the goal.
6. A DBE joint venture partner must be responsible for specific contract items of work, or portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces.
7. The DBE joint venture partner must share in the capital contributions, control, management, risks and profits of the joint venture. The DBE joint venture must submit the joint venture agreement with the DBE information form attached to these instructions.
8. A DBE must perform a commercially useful function, pursuant to Section 26.55, 49 CFR Part 26, i.e. must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work involved. To perform a commercially useful function the DBE must also be responsible with respect to materials and supplies to be used on the contract for negotiating price, determining quality and quantity, installing, where applicable) and paying for the material itself.
9. DBEs must be certified by either the California Department of Transportation, or by a participating State of California or local agency which has a reciprocal agreement with Caltrans, in conformance with 49 CFR Part 26 by the Invitation for Bid (IFB) bid opening date or by the Request for Proposal (RFP) or Architectural and Engineering (A&E) contract SOQ due date before credit may be considered toward meeting the DBE goal. Firms that are self-certified as DBEs are not eligible for DBE credit. It is the Contractor 's responsibility to verify that DBEs are certified.
10. Listing of DBEs certified by the Department of Transportation are available from the following sources:

ATTACHMENT 6

- a. Department's Quarterly DBE Directory. This Directory may be obtained from the Department of Transportation, Materiel Operations Branch, Public Distribution Unit, 1900 Royal Oaks Drive, Sacramento, CA 95815, Telephone (916) 445-3520
- b. The Department's Electronic Information Bulletin Board Service. It is accessible by modem and is updated weekly. The Bulletin Board may be accessed by first contacting the Department's Civil Rights Program at (916) 227-8937 and obtaining a user identification and password.
- c. The Department's Electronic Bulletin Board web site is at <http://www.dot.ca.gov/hq/bep/index.htm>.
- d. The organizations listed below.

NORTHERN CALIFORNIA

Oakland

Districts 4, 5, 6, and 10

(Except for San Luis Obispo, Santa Barbara, and Kern Counties)

SOUTHERN CALIFORNIA

Los Angeles

Districts 7, 8, and 12

(Includes District 5-San Luis Obispo and Santa Barbara Counties and District 6-Kern County)

Padilla & Associates Inc.
5675 East Telegraph Road, Suite A-260
Commerce. CA 90040

(323) 728-8847
(323) 728-8867 FAX

Sacramento

Districts 1, 2, 3, and 9

San Diego

Districts 8 and 11

Padilla & Associates, Inc.
2725 Congress Street, Suite 1-D
San Diego, CA 92110
(619) 725-0843
(619) 725-0854 FAX

11. The bidder/proposer (prime contractor) shall list only one subcontractor for each portion of work as defined in their bid/proposal and all DBE subcontractors must be listed in the bid/cost proposal list of subcontractors.
12. Any dollar amount of work, service or supplies proposed for DBE participation can be counted only once. That is, any further subcontracting or spending for DBE work, service or supplies already credited once for DBE participation cannot be counted again.
13. A prime contractor who is a certified DBE is eligible to claim all of the work in the contract toward the goal except that portion of the work to be performed by non-DBE subcontractors.
14. If the bidder/proposer documents an adequate good faith effort to meet the goal, the award cannot be denied on the basis that the bidder/proposer failed to meet the goal.

ATTACHMENT 6

B. CREDIT FOR MATERIALS AND SUPPLIES

Credit for materials or supplies purchased from DBEs will be as follows:

1. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies will count toward the DBE goal.
2. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the contract.
3. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies will count toward the DBE goal.
4. A DBE dealer is a firm that owns, operates or maintains a store, warehouse or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business.
5. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business as provided in this paragraph if the person both owns and operates distribution equipment for the products.
6. Any supplementing of regular dealers' own distribution equipment shall be a long-term lease agreement and not on an ad-hoc or contract by contract basis.
7. Packagers, brokers, manufacturers' representative, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this paragraph.
8. Credit for materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer will be limited to the entire amount of fees or commission charged for assistance in the procurement of the materials and supplies or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and not excessive as compared with similar fees charged for services. The cost of materials or supplies are not counted toward the DBE goal in this instance.

C. CREDIT FOR DBE TRUCKING COMPANIES

Credit for DBE trucking companies will be as follows:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract and there cannot be a contrived arrangement for the purpose of meeting the DBE goal.
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
3. The DBE will receive credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement.
5. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
6. A lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from being used by others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck.

ATTACHMENT 6

7. Leased trucks must display the name and identification number of the DBE.

III. USE OF PROPOSED DBEs

If awarded the contract(s), the successful bidder must use the DBE subcontractor(s) and or supplier(s) proposed in its bid/proposal.

The Contractor may not substitute, add or terminate a subcontractor, supplier or, if applicable, a trucking company, listed in the original bid/proposal without the prior written approval of the Contract Manager.

The Contractor must make an adequate good faith effort to find another certified DBE subcontractor to substitute for the original DBE. The good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was substituted or terminated to the extent needed to meet the contract goal established for the contract.

The requirement that DBEs must be certified by the bid opening date does not apply to DBE substitutions after award of the contract. Substitutions of DBEs after award must be certified at the time of the substitution or addition.

Authorization to use other subcontractors or suppliers may be requested for the following reasons:

1. The listed DBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract, when such written contract, based upon the general terms, conditions for this contract or on the terms of such subcontractor's or supplier's written bid, is presented by the Contractor.
2. The listed DBE becomes bankrupt or insolvent.
3. The listed DBE fails or refuses to perform the subcontract or furnish the listed materials.
4. The Contractor stipulated that a bond was a condition of executing a subcontract and the listed DBE subcontractor failed or refuses to meet the bond requirements of the Contractor.
5. The work performed by the listed subcontractor is substantially unsatisfactory and is not in substantial conformance with the scope of work to be performed, or the subcontractor is substantially delaying or disrupting the progress of the work.
6. When it would be in the best interest of the State

SUMMARY OF ATTACHMENTS

Department of Transportation forms that are to be attached to these instructions providing information and sources for Caltrans certified firms are:

ADM 0227F Bidder/Proposer DBE Information
ADM 0312F Bidder/Proposer DBE Good Faith Effort Information

Additional copies of the forms can be obtained by contacting the analyst listed in the solicitation.

| BIDDER/PROPOSER BUSINESS NAME | | | | BIDDER/PROPOSER BUSINESS ADDRESS | | | | |
|---|-----------------------------|------|---|----------------------------------|-------------------|---------------|---------------------------------|--------------------------------------|
| NAME OF PERSON SUBMITTING BID/PROPOSAL | | | | SIGNATURE OF BIDDER/PROPOSER | | | | |
| CONTACT PERSON | | | | BUSINESS PHONE () | | | | DATE |
| IMPORTANT: 1) Identify all DBE firms being claimed for credit, regardless of tier. 2) List names of all DBE all subcontractors, regardless of tier, and their respective items of work, 3) Attach a copy of the DBE subcontractor's quote to this form. The DBEs quote will serve as written confirmation that the DBE is participating in the contract. 4) Ownership information required for reporting requirements. | | | | | | | | |
| LIST DBE BUSINESS FIRM(s) | Phone Number (Area Code) | Tier | Item of Work, Service, or Materials Supplied | DBE Cert No. | Ownership Code | Gender M/F | DBE ** Dollar Amount Claimed | Percentage of \$ Value Claimed |
| A DBE PRIME Bidder/Proposer Participation | | | | | | | | |
| B. DBE Subcontractor/Supplier Name and Address | | | | | | | | |
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| TOTAL PARTICIPATION CLAIMED | | | | | | | \$ | % |

Designate Contracting Tier: 0 = Prime or Joint Contractor, 1 = Primary Subcontractor, 2 = Subcontractor/supplier of level 1 Service Contractor/supplier, etc.
Ownership: (1) Black (2) Hispanic (3) Native American (4) Pacific Asian (5) Asian Indian (6) Caucasian (7) Field Blank (8) Other (9) Not Applicable
 DBEs must be certified by Caltrans or a Caltrans participating state or local agency by the bid opening or RFP/SOQ due date. Self-certification is NOT acceptable. **Important:** Names of First Tier DBE Subcontractors and their respective item(s) of work listed above shall be consistent with the names and items of work in the "List of Subcontractors" submitted with your bid/proposal. **For on-call contracts, the dollar amount represents estimated dollar value claimed.

FOR CALTRANS USE ONLY

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| *DBE GOAL _____ % | GFE DEMONSTRATED |
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| VERIFICATION COMPLETED BY OFFICE OF BUSINESS ENTERPRISE: | Award: |
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|-------|------------|-------|
| NAME: | SIGNATURE: | DATE: |
|-------|------------|-------|

Submittal of only the Caltrans Bidder/Proposer DBE Information form ADM0227F may not provide sufficient documentation to demonstrate that an adequate good faith effort was made. Bidders/proposers who propose goal attainment should always submit documentation for making a “good faith effort” to protect their eligibility for award should the Department, in its review, find that the goal was not met. Some examples of disqualification are: 1) DBE subcontractor was not certified by Caltrans or a state or local participating agency, which has a reciprocal agreement with Caltrans, by the bid/proposal due date or 2) bidder/proposer made a mathematical error resulting in failure to meet the goal. Efforts that are merely pro forma are not good faith efforts to meet the goals.

Bidders/proposers shall submit the requested information below when applying for a determination of a good faith effort when no contract goals are attained or when only partial goal(s) have been attained.

1. ADVERTISEMENT DOCUMENTATION

List names and dates of each general circulation newspaper, trade paper and minority focused paper or other publication in which a request for DBE participation was placed. Attach a copy of the advertisements or proofs of publication.

| Publication's Name | Publication Date(s) |
|--------------------|---------------------|
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2. DBE SOLICITATION DOCUMENTATION

- List the names and dates of written notices sent to certified DBEs soliciting bids for the contract.
- List the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested.
- Attach a copy of any solicitation package, phone records, fax confirmations or solicitation follow-up correspondence sent to DBE firms.
- Identify information submitted to the bidder for this solicitation:

Check the appropriate box or boxes: ☐ Invitation for Bid ☐ Request for Proposal ☐ Request for Qualifications

| SOLICITATION | | | | | | |
|--------------|-------------|-------------------|-----------------------------|--------------------------|--------------|--------------|
| Date Mailed | Date Phoned | Date of Follow-up | Follow-Up Method Phone/Mail | Names of Firms Solicited | Contact Name | Phone Number |
| | | | | | | |
| | | | | | | |

2. Solicitation Continued

| Date Mailed | Date Phoned | Date of Follow-up | Follow-Up Method Phone/Mail | Names of Firms Solicited | Contact Name | Phone Number |
|-------------|-------------|-------------------|-----------------------------|--------------------------|--------------|--------------|
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3. ITEMS OF WORK

Identify the items of work which was made available to DBE firms, including, where appropriate, any breakdown of the contract work into economically feasible units to facilitate DBE participation. It is the bidder/proposer's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Items of Work:

Breakdown of Items:

4. DBE RESPONSES

List the DBE firms that responded or submitted bids/proposals to your solicitation for participation in this contract which were not accepted. Provide a summary of your discussions and/or negotiations with them, the name of the firm selected for that portion of work and the reasons for your choice. Attach copies of quotes from firms contacted.

| FIRM NAME | PHONE NUMBER | RESPONDED | | SELECTED | | Give reason for non-selection and a summary of discussions. |
|-----------|--------------|-----------|----|----------|----|---|
| | | YES | NO | YES | NO | |
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5. ASSISTANCE TO DBEs - Bonding, insurance, etc.

Identify efforts to assist DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance related to requirements for the work or for plans and specification provided to DBEs.

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6. ASSISTANCE TO DBEs - Equipment/Materials, etc.
Identify efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate.

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7. ADDITIONAL DATA
Provide any additional data to support a demonstration of good faith efforts such as contacts with DBE assistance agencies. Identify the names of agencies, organizations or groups providing assistance in contacting, recruiting and using DBE firms. Attach copies of requests to agencies and any responses received, i.e., lists, Internet pages, etc.

| NAME OF AGENCY/ORGANIZATION | METHOD/DATE OF CONTACT | RESULTS |
|-----------------------------|------------------------|---------|
| | | |
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NOTE: Please use additional sheets of paper if necessary.

ATTACHMENT # 7
Sample Standard Agreement

| |
|------------------------------------|
| AGREEMENT NUMBER 88A0017 |
| REGISTRATION NUMBER |

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of Transportation

CONTRACTOR'S NAME

Note to Bidders:

The following 24 pages represent a sample of the Agreement that will be awarded, if any, from this RFP. Please review it carefully and present any questions in writing to the contact identified for this RFP.

2. The term of this Agreement is: through

3. The maximum amount \$ of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

| | |
|--|----------|
| Exhibit A – Scope of Work | 7 Pages |
| Exhibit B – Budget Detail and Payment Provisions | 3 Pages |
| Exhibit C* – General Terms and Conditions (GTC 103) | |
| Exhibit D - Special Terms and Conditions | 14 Pages |
| Attachment 1 - Cost Proposal | _ Pages |
| Attachment 2 – Contractor's Certification Clause, CCC 103 | _ Pages |
| Attachment 3 - Technical Proposal | _ Pages |

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this Agreement as if attached hereto. These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

To Be Determined

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

Department of Transportation

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

1727 30th Street, Sacramento, CA 95816

**California Department of General
Services Use Only**

☒ Exempt per: PCC 10295

EXHIBIT A
Standard Agreement

SCOPE OF WORK

1. The work to be performed under this Agreement shall be in accordance with the Contractor's Technical Proposal entitled Northern California Disadvantaged Business Enterprise (DBE) Supportive Services Assistant Consultant (dated _____), **Attachment 3**, the revision thereto dated (DATE), the Contractor's Cost Proposal dated (DATE), **Attachment 1**, and the Scope of Work in this Agreement. The proposals and revision are attached hereto and incorporated by reference. If there are any conflict between the Contractor's proposals and this Agreement, this Agreement shall take precedence.

The Contractor agrees to provide Consulting Services to the Department of Transportation (Caltrans), as described herein:

- A. The Contractor shall provide assistance to DBEs located in California Department of Transportation Districts 1-5 (excluding Santa Barbara and San Luis Obispo Counties), District 6 (excluding Kern County), District 9 and District 10.
- B. The Consultant shall provide resource materials to DBEs pertaining to bonding and loan programs, including information on the Federal Department of Transportation Short-Term Lending Program, Bonding Assistance Program as well as information on Small Business Development Centers (SBDCs), and Minority Business Development Centers (MBDCs).
- C. The Department shall provide the following resource materials for use by the Consultant in administering the Department's Northern California DBE Supportive Services Program:
 - (1) Brochures explaining the DBE program and regulatory information pertaining to Federal-Aid transportation related projects, including highway and transit construction and consultant contracts pertaining to architectural, engineering, and other related professional and service contracts
 - (2) Applications and instructions for DBE certification
 - (3) Lists of Federal-Aid highway and other transportation-related contracts scheduled for advertising and under construction by the Department

EXHIBIT A
Standard Agreement

- (4) Copies of plans, specifications, and prime plan holder lists for construction and other transportation-related contracts put out to bid by the Department
 - (5) Copies of Requests for Proposals for service contracts
 - (6) Lists of upcoming Architectural and Engineering projects
 - (7) The Consultant shall make available at each office, a plan room or area where plans can be viewed by certified DBE.
- D. The Consultant shall promote DBE participation with all of the Department of Transportation personnel and the following agencies, and firms:
- (1) California Department of Transportation
 - (a) Business Enterprise Program
 - (b) Division of Local Assistance
 - (c) Office of Office Engineer
 - (d) Division of Procurement and Contracts
 - (2) City and Counties in Northern California utilizing Federal-Aid transportation funds
 - (3) Professional Architectural and Engineering Associations
 - (4) Construction Contractor Associations
 - (5) Highway Contractors (primes and subcontractors)
 - (6) Suppliers of construction materials
 - (7) Trucking firms and association
 - (8) DBE Contractor Associations
 - (9) Media focusing on DBE Contractors, particularly DBE focus/trade publications, where prime contractors advertise for DBE subcontractors
- E. The Consultant shall devote approximately 60% of their efforts to develop and deliver a Technical Assistance Training Program, Training Manual, and Training Modules that shall provide technical assistance to certified DBE firms

EXHIBIT A
Standard Agreement

in the Northern California area. The Training Program and Training Manual will include the following sections:

(1) Client Procedures

(2) Provider Procedures

(3) Technical Assistance Training Modules at a minimum shall include the following seven (7) sections. Each of the following seven sections shall constitute a separate training module:

(a) Construction

- (i) Construction Methods
- (ii) Bidding
- (iii) Prime Contractor – Subcontractor Relations
- (iv) Project Management
- (v) Estimating
- (vi) Plan Reading
- (vii) Pre-Bid Conferences

(b) Accounting and Cash Flow Management

- (i) Accounting – certified payrolls
- (ii) Cash Flow Management – costs associated with scheduling; cash flow models

(c) Bonding and Financing

- (i) Expanding bonding capacity
- (ii) Bonding requirements
- (iii) Preparation of bonding packages
- (iv) Short-term loans
- (v) Lines of Credit

(d) Contract Law – Business Law, Equal Employment Opportunities (EEO) and Affirmative Action (AA)

- (i) Business Law
- (ii) Workers' Comp
- (iii) Wage Rates
- (iv) EEO/AA
- (v) EEO Contractor Compliance requirements

(e) Business Management, Plans and Marketing

- (i) Business Management – effective management of your business; quality assurance

EXHIBIT A
Standard Agreement

- (ii) Business Plan – Development and successful modification of business plans
 - (iii) Marketing
 - Expectation from prime contractors
 - (iv) Promotion of client business to prime contractors
 - (v) Assistance to engineering firms of potential projects and advice on proposal development
- (f) Computer Training
 - (i) Application software
 - (ii) Online services and completion of certification and bid document applications
- (g) Safety
 - (i) Regulations imposed by Federal and State requirements
 - (ii) Training to carry out contract requirements
 - (iii) Provider Contact Information
 - (iv) Map of CA DOT Districts/Regions
 - (v) Providers by Category for Regions
 - (vi) Sample Forms to be used for the Program
- F. Each training module shall consist of approximately twelve (12) hours of training. The training classes may be offered in the evenings and on weekends.
- G. The Consultant shall conduct a total of ten training modules each year, for a total of 30 training modules over the three-year contract period.
- H. Each year the Consultant shall schedule and conduct the first seven training modules in the order listed above.
- I. The Contractor shall meet with the State Contract Manager to determine the topics for the final three (3) training modules to be offered to DBE clients each year. Upon approval of the State Contract Manager, the Contractor shall schedule and deliver the training sessions.
- J. The Consultant shall provide Technical Assistance to DBE Construction firms (including protégé's of the Department's Mentor/Protégé Program)as follows:
 - (1) Consultant shall develop and implement a program to provide and maintain pre-bid and pre-construction assistance, including, but not limited to: construction administration, quantity take-offs, estimating,

EXHIBIT A
Standard Agreement

bonding and financing opportunities, accounting procedures, and networking with prime contractors in achieving their goals.

- (2) Consultant shall attend pre-bid conferences in the service area.
 - (3) Consultant shall provide assistance to potential DBE firms for possible certification by the Unified Certification Program (UCP) and shall follow-up on the results of the certification assistance rendered.
 - (4) Consultant shall provide DBEs with post-award assistance such as efficient purchasing and management control, proper reporting procedures, labor and safety regulations, scheduling, job planning and control, and labor compliance.
 - (5) Consultant shall provide technical assistance to certified DBE firms as needed to successfully participate in awarded projects.
- K. The Consultant shall be required to attend an average of four (4) "approved" local and statewide business conferences and/or workshops related to DBE issues within their service delivery areas per year, or a total of 12 over a three year period.
- (1) The Consultant's role at such conferences or workshops is typically to provide information about the Department's Supportive Services Program and to market the assistance available to DBEs, including the DBE certification process.
- L. The Consultant may also be asked to conduct focused outreach for highly sensitive projects.
- M. The Consultant or a designated representative shall attend the quarterly Department's Small Business Council meetings. These meetings are approximately four hours and are generally held at Department's Headquarters Building, located at 1120 N Street, Sacramento, 95814.
- (1) The Consultant shall have at least one (1) person in attendance at Small Business Council Meetings.
 - (2) The purpose of attending the council meetings is for the Consultant to hear first-hand concerns and recommendations from the Council members relating to contracting with the Department and with Local Agencies, as well as to learn about the latest trends impacting public works contracting.

EXHIBIT A
Standard Agreement

- (3) The Council members includes representatives from the private sector including minority and women based organizations.
 - N. The Consultant or designated representative shall also attend the Department's quarterly Small Business Council Committee Meetings. These meetings are generally scheduled prior to the Small Business Council Meeting in Sacramento.
 - (1) Two of these committees, the Construction Committee and the Professional Services Committee, are generally held in Sacramento on the evening prior to the entire council meeting, from 6:00 P.M. to 9:00 P.M.
 - O. The Consultant shall attend and participate in the Small Business Council's Annual Planning Session. The Annual Planning Session is normally a two (2) day event held each January in Southern California.
 - (1) The Consultant shall schedule at least two staff to attend the yearly planning session.
 - N. The Consultant or designated representative shall participate in and attend three (3) mandatory meetings per year in Sacramento with the Department's Business Enterprise Program (BEP) staff. Meeting are approximately three (3) hours in length and will be held at the Department's Office of Civil Rights, 1823 14th Street, Sacramento, CA 95814.
 - (1) The purpose of mandatory meetings are to discuss DBE issues, concerns, program reports and recommendations for improvements.
 - (2) These meeting are generally scheduled to coincide with the Department's Small Business Council Meetings.
2. The services shall be performed at two Consultant maintained offices:. one within the San Francisco/Oakland Bay Area and one within the Sacramento/San Joaquin Valley region. The offices shall:
- A. Be readily accessible to clients
 - B. Be adequately staffed both by professional and support staff.

EXHIBIT A
Standard Agreement

3. This Agreement shall begin on **(Agreement start date)**, contingent upon approval by the State, and expire on **(Agreement end date)**, unless extended by amendment. The services shall be provided during Monday through Friday, from 8:00 A.M. to 5:00 P.M. except on State Holidays
4. The project representatives and all inquiries during the term of this Agreement will be directed to:

| | |
|------------------------------|------------------|
| Department of Transportation | Contractor: |
| Section/Unit: | Section/Unit: |
| Contract Manager: | Project Manager: |
| Address: | Address: |
| | |
| Phone: () | Phone: |
| Fax: () | Fax: |

EXHIBIT B
Standard Agreement

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto, Attachment 1, and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Department of Transportation
Office of Civil Rights
Attention: Contract Manager's Name
Street Address/P.O. Box
Sacramento, CA 95814

- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

2. Budget Contingency Clause

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.
- C. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

EXHIBIT B
Standard Agreement

- D. The State has the option to void the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Rates

- A. Rates for these services may be found on Attachment 1 of this document.
- B. If the Contractor has not entered into an Agreement with a Federal Agency and therefore is not bound by that Federal Agency's negotiated rates, the basis for determining overhead and indirect costs shall be based upon the cost principles as outlined in Section 6.

5. Allowable Costs and Payments

- A. The method of payment for this Agreement will be based on actual costs plus a fixed fee. The State will reimburse the Contractor for actual costs (including labor costs, employee benefits, travel, overhead and other direct costs) incurred by the Contractor in performance of the work, exclusive of any fixed fee, not to exceed the amount of \$ (**AMOUNT**). Actual costs shall not exceed the estimated wage rates and other estimated costs set forth in the Contractor's cost proposal without prior written Agreement between the State and the Contractor.
- B. In addition to the actual costs, the State will pay the Contractor a fixed fee of \$ (**AMOUNT**). The fixed fee is nonadjustable for the term of the Agreement except in the event of a significant change in the scope of work and such adjustment is made by Agreement amendment.
- C. Transportation and subsistence costs shall not exceed rates authorized to be paid non-represented State employees under current State Department of Personnel Administration rules.
- D. Progress payments will be made monthly in arrears based on services provided and actual costs incurred. The State will withhold 10% of each progress payment. The retention amount will be paid to the Contractor after the State has evaluated

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the Contractor's performance and made a determination that all Agreement requirements have been satisfactorily fulfilled.

- E. The Contractor shall not commence performance of work or services until this Agreement has been approved by the State. No payment will be made prior to approval nor for any work performed prior to approval of this Agreement.
- F. The total amount payable by the State, including the fixed fee, shall not exceed \$ (AMOUNT).

6. Cost Principles

- A. The Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., shall be used to determine the allowable individual items of cost.
- B. The Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments are subject to repayment by Contractor to State.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

7. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

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SPECIAL TERMS AND CONDITIONS

1. The Contractor's Certification Clause, CCC 103 is attached hereto, Attachment 2 and made a part of this Agreement.

2. Settlement of Disputes

- A. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Department's Contract Officer, who may consider any written or verbal evidence submitted by the Contractor. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on both parties to the Agreement on all questions of fact considered and determined by the Contract Officer.
- B. Neither the pendency of a dispute nor its consideration by the Contract Officer will excuse the Contractor from full and timely performance in accordance with the terms of the Agreement.

3. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Office file, and the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

4. Agency Liability

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

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5. Subcontractors

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- B. The Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the State's Contract Manager, except that which is identified on DBE Participation Goals and Verification form, ADM 0227F.
- C. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- D. Any substitution of subcontractors must be approved in writing by the State's Contract Manager in advance of assigning work to a substitute subcontractor.

6. Contractor's Reports and/or Meetings

- A. The Contractor shall submit progress reports once a month to allow the Contract Manager to determine if the Contractor is performing to expectations or is on schedule, to provide communication of interim findings and to afford occasions for airing difficulties or special problems encountered so that remedies can be developed.
- B. The Contractor shall meet with the Contract Manager as needed to discuss progress on the Agreement.
- C. Prior to completion of the Agreement, the Contractor shall hold a final meeting with the Contract Manager to present findings, conclusions and recommendations and shall submit a comprehensive final report on the project.

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- D. Any document or written report prepared as a requirement of this Contract shall contain, in a separate section preceding the main body of the document, a list of all Contracts and subcontracts (including dollar amounts) relating to the preparation of those documents or reports if the combined costs for work by non-employees of the Contractor exceed \$5,000.
- E. The Contractor shall submit completed monthly progress report to the States Contract Manager no later than the tenth work date following each month. The State Contract Manager will provide the Contractor with a monthly report template.
- F. The Consultant shall provide a training progress report once the Training Manual and Training Modules have been approved by the state.
- G. The Contractor shall submit the completed annual report, no later than 10 days following the end of the contract year.

7. Publication

- A. The Contractor shall not copyright the training course materials or written report developed and funded from this Agreement.
- B. The training course materials/written product/report funded from this Agreement shall become the property of the State, and all publication use rights are reserved to the State.
- C. The written product or title pages of the report/course outline shall bear an appropriate description acknowledging the source of funds used to produce the report/document/ training course and materials.
- D. The course outline/written product/report shall contain the following disclaimer in a separate section preceding the main body of the document:

"The contents of this training course/documentation/report reflect the views of the author who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration. This course outline/document/report does not constitute a standard, specification, or regulation."

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8. Termination

- A. The Department of Transportation reserves the right to terminate this Agreement without cause upon thirty (30) days written notice to the Contractor or immediately in the event of material breach by the Contractor.
- B. In the event that the total contract amount is expended prior to the expiration date, the State may, at its discretion, terminate this contract with 30 days notice to contractor.

9. DBE Participation Goal Requirements

- A. The DBE participation goal for this Agreement is 17% percent. Participation by DBE prime and subcontractors shall be in accordance with the information contained in the Bidder/Proposer DBE Information Form ADM 0227F attached and incorporated into this Agreement.
- B. The Contractor shall carry out applicable requirements of 49 CFR, Part 26, of the Code of Federal Regulations, entitled "Participation by Disadvantaged Business Enterprises (DBEs) in Department of Transportation Financial Assistance Programs," in the award and administration of federally assisted Agreements. The regulations in their entirety are incorporated herein and by reference.
- C. Non-compliance by the Contractor or subcontractor with the requirements of the regulations is a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedy for a breach of this Agreement, as the California Department of Transportation deems appropriate.
- D. The Contractor or subcontractor shall not discriminate on the basis of race color, national origin or sex in the performance of this Agreement. Each subcontract signed by the Contractor in the performance of this Agreement must include this assurance.

10. Payment to DBE and Non-DBE Contractors

The Contractor shall pay its DBE subcontractors and non-DBE subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the State.

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11. Payment to DBE and Non-DBE Subcontractors

The Contractor shall return all moneys withheld in retention from the subcontractor within 30 days after receiving payment for work satisfactorily completed, even if other Agreement work is not completed and has not been accepted in conformance with the terms of the Agreement. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or subcontractor in the event of a dispute involving late payment or non-payment to the Contractor or deficient subcontract performance or noncompliance by a subcontractor.

12. DBE Records

- A. The Contractor shall maintain records of all subcontracts entered into with certified DBE subcontractors and records of materials purchased from certified DBE suppliers. The records shall show the name and business address of each DBE subcontractor or vendor and the total dollar amount actually paid each DBE subcontractor or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime contractors shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report- Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" and certified correct by the Contractor or the Contractor's authorized representative, and shall be furnished to the Contractor Manager. The form shall be furnished to the Contract Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Contractor when a satisfactory Final Report Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors is submitted to the Contract Manager.

13. DBE Substitutions

- A. The Contractor may not substitute a listed DBE subcontractor, supplier or, if applicable a trucking company, without the prior written approval of the Contract Manager. Failure to obtain approval of substitute subcontractors before work is

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performed, supplies are delivered or services are rendered may result in payment being denied by Caltrans.

- B. The Contractor must make an adequate good faith effort to find another certified DBE subcontractor to substitute for the original DBE. The good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was substituted or terminated to the extent needed to meet the Agreement goal established for the Agreement.
- C. The requirement that DBEs must be certified by the bid opening date does not apply to DBE substitutions after award of the Agreement. DBEs substituted after award must be certified at the time of the substitution.
- D. Contractors shall submit requests for substitution to the Contract Manager. Authorization to use other subcontractors or suppliers may be requested for the following reasons:
 - 1. The listed DBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written Agreement, when such written Agreement, based upon the general terms, conditions for this Agreement or on the terms of such subcontractor's or supplier's written bid, is presented by the Contractor.
 - 2. The listed DBE becomes bankrupt or insolvent.
 - 3. The listed DBE fails or refuses to perform the subcontract or furnish the listed materials.
 - 4. The Contractor stipulated that a bond was a condition of executing a subcontract and the listed DBE subcontractor failed or refuses to meet the bond requirements of the contractor.
 - 5. The work performed by the listed subcontractor is substantially unsatisfactory and is not in substantial conformance with the scope of work to be performed, or the subcontractor is substantially delaying or disrupting the progress of the work.
 - 6. When it would be in the best interest of the State.
- E. At a minimum, the Contractor's substitution request to the Contract Manager must include:
 - 1. a written explanation of the substitution reason; and if applicable, the Contractor must also include the reason a non-DBE subcontractor is proposed for use.
 - 2. a written description of the substitute business enterprise, include their business status DBE certification number and status as a :
 - sole proprietorship, partnership, corporation or other entity, and

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- the firm's DBE certification status, if any.
 - 3. a written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall Agreement that the substitute firm will perform.
- F. Prior to the approval of the prime Contractor's substitution request, the contract manager must give written notice to the subcontractor being substituted by the prime Contractor. A copy of the notice sent by the Contract Manager must be sent to the Contracts office. The notice must:
- 1. give the reason the prime Contractor is requesting substitution of the listed subcontractor;
 - 2. give the listed subcontractor five working days within which to submit written objections to the Contracts Office and copies to the Contract Manager;
 - 3. notify the subcontractor that if a written objection is not received or received past the due date, such failure will constitute consent to the substitution; and
 - 4. be served by certified or registered mail to the last known address of the listed subcontractor.
 - 5. The listed subcontractor, who has been so notified, shall have five working days within which to submit written objections to the substitution to the Contract Manager. Failure to submit a written objection shall constitute the listed subcontractor's consent to the substitution.
- G. If written objections are filed by the listed Contractor, the Contract's Office will render a written decision. The Contracts Office shall give written notice of at least five working days to the listed subcontractor of a hearing by the Department on the prime Contractor's request for substitution.

14. Termination of a DBE

- A. In conformance with Federal DBE regulation Sections 26.53(f)(1) and 26.53(f)(2), Part 26, 49 CFR, the Contractor shall not:
- 1. terminate for convenience a listed DBE subcontractor and then perform that work with its own forces(personnel), or those of an affiliate, unless the Contractor has received prior written authorization from the Contract Manager to perform the work with other forces (other than the Contractor's own personnel) or to obtain materials from other sources; and
 - 2. If a DBE subcontractor is terminated or fails to complete its work for any reason, the Contractor will be required to make good faith efforts to replace the

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original DBE subcontractor with another DBE subcontractor to the extent needed to meet the Agreement goal.

- B. Noncompliance by the Contractor with the requirements of this article is considered a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedies for a breach of this Agreement, as the Department deems appropriate.

15. DBE Certification and De-certification Status

- A. If a DBE subcontractor is decertified during the life of the Agreement, the decertified subcontractor shall notify the Contractor in writing with the date of de-certification. If a subcontractor becomes a certified DBE during the life of the Agreement, the subcontractor shall notify the Contractor in writing with the date of certification.
- B. The Contractor shall complete the DBE Certification Status Change form provided by the Contract Manager indicating the DBEs existing certification status and shall be signed and certified correct by the Contractor. The certified form shall be furnished to the Contract Manager within 30 days from the date of acceptance by the Contractor.

16. DBE Eligibility

- A. The dollar value of work performed by a DBE is credited/counted toward the goal only after the DBE has been paid.
- B. Credit for DBE Prime Contractors

The prime Contractor who, is a certified DBE, is eligible to claim all of the work toward the goal except that portion of the work to be performed by non-DBE subcontractors.

17. Retention of Records/Audits

- A. For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, subcontractors and the State shall maintain all books, documents, papers,

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accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

- B. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this article.

18. Federal Lobbying Activities Certification

- A. The Contractor certifies, to the best of his or her knowledge and belief, that:

No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal Agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any Cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal Agreement, Grant, loan, or cooperative agreement.

- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be

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subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- D. The Contractor also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

19. Rebates, Kickbacks and Other Unlawful Consideration

The Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any state agency employee. For breach or violation of this warranty, the State shall have the right, in its discretion, to terminate the Agreement without liability, to pay only for the value of work performed, or to deduct from the Agreement price or otherwise recover the full amount of each rebate, kickback or other unlawful consideration.

20. Prohibition From Bidding

This Agreement is subject to the provisions of Section 10365.5 of the Public Contract Code which states: "No contractor who has been awarded a consulting services Agreement may submit a bid for, nor be awarded an Agreement for, the provision of services, goods and supplies, or any other related action which is required, suggested or otherwise deemed appropriate in the end product of the original consulting services Agreement."

21. Consultant Contractor's Rights and Obligations

The Contractor is advised that the provisions of Public Contract Code Sections 10335 through 10381 pertaining to the duties, obligations and rights of a consultant service Contractor are applicable to this Agreement.

22. Audit Review Procedures

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by Agreement shall be reviewed by the Chairperson of the Audit Review Committee (ARC). The ARC will consist of the Deputy Director, Audits & Investigations (Chairperson); Deputy Director of the

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functional Program area; the Chief Counsel, Legal Division, or their designated alternates; and if the Department chooses, two representatives of the Department's choosing, from private industry. The two representatives from private industry will be advisory in nature only and will not have voting rights. Additional members or their alternates may serve on the ARC.

- B. Not later than thirty (30) days after issuance of the final audit report, the Contractor may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the appropriate Chief Deputy Director. The Chief Deputy Director will make the final decision for the Department. The final decision will be made within three (3) months of receipt of the notification of dispute.
- C. Neither the pendency of a dispute nor its consideration by Caltrans will excuse the Contractor from full and timely performance, in accordance with the terms of this Agreement.

23. Debarment and Suspension Certification

- A. The Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the Contractor or any person associated therewith in the capacity of owner, partner, director, officer, or manager:
 - 1. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. does not have a proposed debarment pending; and
 - 4. has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to the Department of Transportation. Exceptions will not necessarily result in denial of recommendation

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for award, but will be considered in determining bidder responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

24. Union Organizing

- A. Contractor, by signing this Agreement, hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement.
- B. Contractor will not assist, promote, deter union organizing by employees performing work on a State service Agreement, including a public works Agreement. No State funds received under this Agreement will be used to assist, promote, or deter union organizing.
- C. Contractor will not, for any business conducted under this Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meeting is to assist, promote, or deter union organizing, unless the State property is equally available to the general public for holding meetings.
- D. If Contractor incurs costs or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs and that Contractor shall provide those records to the Attorney General upon request.

25. APPENDIX A

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- A. **Compliance with regulations:** The Contractor shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation - Title 49 Code of Federal Regulations Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

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- B. Nondiscrimination:** The Contractor, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
- D. Information and Reports:** The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State Department of Transportation or any duly authorized representative of the Federal Government to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State Department of Transportation, or any duly authorized Federal Agency as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State Department of Transportation shall impose such Agreement sanctions as it or any Federal funding agency may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Contractor under the Agreement until the Contractor complies, and/or
 2. cancellation, termination or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor will take such action with respect to any

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subcontractor or procurement as the State Department of Transportation or any Federal funding agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State Department of Transportation to enter into such litigation to protect the interest of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STATE OF CALIFORNIA
Business, Transportation and Housing Agency
Department of Transportation

ATTACHMENT 8

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